

affiliate requirement. Since a principal purpose of a separate affiliate requirement is to ensure that competing providers enjoy nondiscriminatory access to telecommunications facilities, that requirement has no place in the context of a service, like cable service, which is provided over facilities that need not be made available to competing providers.³⁰ Stated differently, since cable companies need not open their networks on nondiscriminatory terms to competing video programmers, a separate subsidiary requirement for cable service would be completely unnecessary. This is all the more true with respect to Ameritech, which is not even providing cable service over its telephone network, but, rather, is building an "overlay" network.

E. Joint Marketing is Joint Marketing, Regardless of Whether it Occurs Before or After an Initial Sale of Services.

Although Ameritech generally urges the Commission to affirm the Order, Ameritech asks that the Commission modify the Order in one minor respect. Specifically, Ameritech supports US West's request that the Commission reconsider its finding that any marketing activity that takes place after an initial sale of services is not "joint marketing" for purposes of section 271(e)(1).

As US West explains, this decision cannot be squared with the language of the Act. The Act makes no distinction between joint marketing that occurs as part of an initial sale or after such sale, and a company that sells two services in a single transaction or on a bundled basis is clearly engaged in

³⁰ See *United States v. AT&T*, 552 F. Supp. 131, 189 (D. D.C. 1982), wherein the Court, in explaining the basis for prohibiting BOCs from providing information services, stated: "All information services are provided directly via the telecommunications network. The Operating Companies would therefore have the same incentives and the same abilities to discriminate against competing information service providers that they would have with respect to competing interexchange carriers."

the joint marketing of such services, regardless of when that sale takes place relative to other sales that have been made to the customer. There is absolutely no legal basis upon which the Commission could have concluded to the contrary. Because this conclusion is so clearly at odds with any reasonable construction of section 271(e)(1), Ameritech urges the Commission to modify it.

III. CONCLUSION

For the reasons stated above, Ameritech opposes the petitions for reconsideration of AT&T, MCI, TCG, and Time Warner, and supports US West's petition, in part. It takes no position on other matters raised on reconsideration.

Respectfully Submitted,




Gary L. Phillips
Counsel for Ameritech
1401 H Street, N.W. Suite 1020
Washington, D.C. 20005
(202) 326-3817

April 2, 1997

CERTIFICATE OF SERVICE

I, Toni R. Acton, do hereby certify that a copy of the foregoing Ameritech Comments has been served on the parties listed on the attached service list, by first class mail, postage prepaid, on this 2nd day of April 1997.

By: 
Toni R. Acton

Mr. Richard J. Metzger
General Counsel
Association for Local
Telecommunications Services
1200 19th Street, NW
Suite 560
Washington, DC 20036

Brian Conboy
Sue Blumenfeld
Michael Jones
Willkie Farr & Gallagher
Attorneys for Time Warner Cable
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036

Walter H. Alford
William B. Barfield
Jim O. Llewellyn
Bellsouth Corporation
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30309-2641

David G. Frolio
Bellsouth Corporation
1133 21st Street, NW
Washington, DC 20036

Richard A. Karre
US West, Inc.
1020 19th Street, NW
Suite 700
Washington, DC 20036

James Bolin
Mark Rosenblum
Leonard Cali
AT&T Corporation
295 North Maple Avenue
Room 3247H3
Basking Ridge, NJ 07920

Teresa Marrero
Senior Regulatory Counsel
Teleport Communications Group, Inc.
One Teleport Drive
Staten Island, NY 10311

Laura H. Phillips
Christina H. Burrow
Werner K. Harianberger
Dow, Lohnes & Albertson
Attorneys for Cox Communications, Inc.
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036

Frank Krogh
Mary L. Brown
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, NW
Washington, DC 20006